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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 AVOCENT REDMOND CORP.,

9 Plaintiff,

10 v.

11 ROSE ELECTRONICS, *et al.*,

12 Defendants.

Case No. C06-1711RSL

ORDER REGARDING PLAINTIFF'S
MOTION TO LIMIT THE NUMBER
OF INVALIDITY CONTENTIONS

13 This matter comes before the Court on “Avocent Redmond Corp.’s Motion to
14 Limit the Number of Prior Art References and Invalidity Contentions Relied Upon by the
15 Defendants.” Dkt. # 389. Defendants have asserted thousands of prior art combinations that
16 allegedly anticipate or make obvious the fifty-five claims plaintiff asserts in this litigation.
17 Plaintiff does not argue that the invalidity contentions are improper under the Local Patent Rules
18 of this district. Rather, plaintiff argues that the references are duplicative and that the Court
19 should exercise its inherent power to require defendants to identify the handful of prior art
20 references they intend to present to the jury.

21 Defendants have not asserted a property interest in the invalidity contentions. Nor
22 do they explain why they should be permitted to present to the jury hundreds of different
23 combinations of prior art to show that a single claim was obvious at the time of the invention. In
24 fact, it would be impossible to do so given the time constraints in which the parties must present
25 this case. Defendants’ overly-inclusive lists of prior art and prior art combinations make it
26 impossible to focus discovery efforts or prepare for trial: neither plaintiff nor the Court can

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1 determine on which patents defendants actually intend to rely. Pursuant to Fed. R. Ev. 403 and
2 its inherent powers, the Court will exclude from trial evidence that, while relevant, will confuse
3 the issues, cause undue delay, waste time, and/or be cumulative.

4 As discussed in the context of defendants' motion to limit the number of claims
5 asserted, various case management techniques are available to the Court in these circumstances.
6 The Court would prefer, however, that the parties agree to a case management plan that will
7 avoid jury confusion and ensure that all issues are resolved in the allotted time. Otherwise, the
8 plan will be dictated by the Court as the trial date approaches. Defendants are expressly warned
9 that the unreasonable and clearly duplicative number of prior art references they have asserted
10 has impeded the orderly litigation of this matter. If this situation continues and the Court
11 concludes that their over-disclosure has adversely affected this tribunal's search for truth,
12 sanctions such as adverse inferences, striking of references, and/or cost-shifting will be imposed.

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14 For all of the foregoing reasons, plaintiff's "Motion to Limit the Number of Prior
15 Art References and Invalidity Contentions Relied Upon by the Defendants" (Dkt. # 389) is
16 DENIED without prejudice to the issues being raised again by plaintiff or the Court.

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19 Dated this 29th day of May, 2012.

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21 Robert S. Lasnik
22 United States District Judge
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